

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

PATRICK FLORENCE,

Petitioner

v.

DR. ANKOH, et. al.

Respondents

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1:04-cv-38 (WLS)

ORDER

Before the Court is a Recommendation from United States Magistrate Judge Richard L. Hodge (Doc. 62) filed on June 17, 2005. It is recommended Petitioner's Motion for Default Judgment (Doc. 32) be denied; and that Petitioner's Motion for Injunctive Relief (Doc. 50) be denied. Petitioner filed his timely objection to this recommendation on June 28, 2005. (Doc. 64).¹

I. Motion for Default Judgment

In his recommendation, the Magistrate Judge found that Petitioner filed a Motion for Default Judgment in September 2004, asking that a default be entered against Respondents Haynes and Roberts for their failure to file an Answer in the above-captioned action. (Doc. 64). Judge Hodge also found that prior to Petitioner's filing of the motion at issue, Respondents had filed a pre-answer motion to dismiss, and were thereby not required to file an answer until said motion to dismiss was ruled upon. *Id.* Additionally, it was found that said motion to dismiss was still pending at the time of Petitioner's filing. Accordingly, the Magistrate Judge concluded Petitioner's request for entry of default is without basis; and therefore recommended that said motion should be denied. *Id.* Petitioner does not address the Recommendation regarding his motion for default judgment in his Objection. (*See* Doc. 64).

II. Motion for Injunctive Relief

¹ It is noted that Petitioner has filed numerous additional documents which purport to be amended objections to the instant Report and Recommendation. (Docs. 65, 74, 75, 78, 81, 82, 84). It is found that the above cited documents were filed without leave of Court and are therefore **STRICKEN** from the record.

Respecting Petitioner's Motion for Injunctive Relief, the Magistrate Judge found that Plaintiff sought an order directing Respondents Graham, Haynes and Roberts to return his personal legal materials confiscated while he was confined at Lee State Prison. (Doc. 62). It was found that Petitioner has not established that he is entitled to injunctive relief, i.e., that: 1) there is a substantial likelihood on the merits, 2) that he will suffer irreparable harm unless the injunction issues, or 3) that no other relief is available to address his injuries. *Id.* Accordingly, it was recommended that Petitioner's Motion for Injunctive Relief be denied. *Id.*

Petitioner responds to the instant Report and Recommendation, not by objecting to the findings contained therein, but rather by: 1) recasting arguments as to the merits of his preliminary injunction petition which were fully addressed by the Magistrate Judge in their original form in the Recommendation at issue; and 2) asserting for the first time that Defendants, including Counsel, have served and filed contradictory "factual issues after seized exhibits and fail[ed] to produce inventory sheet." (Doc. 64). As Petitioner's new assertions regarding Defendants' alleged contradictory filings were not before the Magistrate Judge when he issued the Recommendation at issue, the Court will not consider these new allegations when reviewing the same.

Accordingly, upon full review and consideration upon the record, the Court finds that the Report and Recommendation (Doc. 62) should be, and hereby is, **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein, together with the findings made and conclusions reached herein. Therefore, Petitioner's Motion for Default Judgment (Doc. 32) is **DENIED**; and Petitioner's Motion for Injunctive Relief (Doc. 50) is **DENIED**.

SO ORDERED, this 17th day of August, 2006.

/s/W. Louis Sands
W. LOUIS SANDS, CHIEF JUDGE
UNITED STATES DISTRICT COURT